

**AFFIDAVIT**

I, Bryan J. Allen, a Task Force Officer with the Federal Bureau of Investigation (FBI), Cleveland Division, being duly sworn, depose and state as follows:

1. I have been employed as a Canton Police Officer for approximately twenty four years, and am currently assigned to the Cleveland Division, Canton Resident Agency's Child Exploitation Task Force. While employed by the Canton Police Department and assigned to the FBI, I have assisted in the investigation of federal criminal violations related to Violent Crimes and the FBI's Innocent Images National Initiative, which investigates matters involving the online sexual exploitation of children. I have gained experience through training at the FBI's Innocent Images National Initiative training center and everyday work related to conducting these types of investigations.
2. As a task force officer having received a Special Deputization from the United States Marshal's Office, I am authorized to investigate violations of laws of the United States and to execute warrants issued under the authority of the United States.
3. This affidavit is being submitted for the limited purpose of establishing probable cause that David Simmers of 42<sup>nd</sup> St NW in Canton, Ohio, violated Title 18, U.S.C. § 2252A(a)(5)(B) (possession of child pornography) and Title 18, U.S.C. § 2252A(a)(2)(A) (receipt of child pornography).

**RELEVANT STATUTES**

4. This investigation concerns alleged violations of:

- a. 18 U.S.C. §§ 2252A(a)(5)(B), which prohibits a person from knowingly accessing with intent to view any book, magazine, periodical, file, video tape, compact disk or any other material that contains visual depictions which were shipped or transported using any means and facility of interstate or foreign commerce, or in or affecting interstate or foreign commerce, or which was produced using materials that have been mailed, shipped, or transported in and affecting interstate and foreign commerce by any means, including by computer, the production of which involved the use of a minor engaged in explicit conduct, and which visual depictions were of such conduct.
- b. 18 U.S.C. §§ 2252A(a)(2)(A), which prohibits a person from knowingly receiving, distributing or conspiring to receive or distribute any child pornography or any material that contains child pornography, as defined in 18 U.S.C. § 2256(8), that has been mailed, or using any means or facility of interstate or foreign commerce shipped or transported in or affecting interstate or foreign commerce by any means, including by computer.

**BACKGROUND OF THE INVESTIGATION AND PROBABLE CAUSE**

5. On December 10, 2019, while connected to the Internet in an online covert capacity, Affiant was signed into an automated software program which operates on the Bit Torrent platform. The software program automates the process of browsing and downloading files from a single source. The downloaded torrents are shared by a user over the Bit Torrent network. The software program

searches the Bit Torrent network for torrents with infohash values of suspected child pornography.

6. Continuing December 10, 2019 and December 11, 2019, the individual utilizing IP address 69.81.147.138 was reporting to have, and making available for sharing, 460 files referenced by a torrent of interest with an infohash: 5c52c2cfdbcd7c18264391cd274ac87ab98f11cc. The file was identified as being a file of investigative interest. The individual utilizing IP address 69.81.147.138 was using BitTorrent client software -DE13D0- Deluge 1.3.13.
7. Between December 10, 2019 and December 11, 2018 between 3:52am and 4:05am Affiant successfully downloaded 237 files from the torrent that computer at IP address 69.81.147.138 was making available. A sample of the files that were identified as child pornography are described below:
  - a. **Image Title: PTHC-6yo-16yo Blowjob by Caligvla-(2).jpg**  
Description: The image depicts a nude prepubescent female engaging in oral to genital intercourse with a male subject.
  - b. **Image Title: PTHC-6y0-16yo Blowjob by Calgvia-(5).jpg**  
Description: The image depicts male approximately 10-12 years old engaged in oral to genital intercourse with another male subject.
  - c. **Image Title: PTHC-6yo-16yo Blowjob by Calgvia-(135).jpg**  
Description: The image depicts a nude male toddler on his knees with a nude adult male standing in front of him. The adult male's penis is touching the lips of the male toddler.
8. On December 11, 2019, the individual utilizing IP address 69.81.147.138 was reporting to have, and making available for sharing, 460 files referenced by a torrent of interest with an infohash: 5c52c2cfdbcd7c18264391cd274ac87ab98f11cc. The files were identified as

being files of investigative interest. The individual utilizing IP address 69.81.147.138 was using BitTorrent client software -DE13D0- Deluge 1.3.13.

9. December 11, 2019, between 4:22am and 11:22pm Affiant successfully downloaded 123 files from the torrent that computer at IP address 69.81.147.138 was making available. The file that was identified as child pornography is described below:

**a. Image Title: PTHC-6yo-16yo Blowjob by Caligvla-(260).jpg**

Description: The image depicts a nude prepubescent female engaging in oral sex with a nude prepubescent male.

**b. Image Title: PTHC-6yo-16yo-Blowjob by Caligvla-(269).jpg**

Description: The image depicts a partially nude female toddler engaging in oral to genital intercourse with an adult male subject.

**c. Image Title: PTHC-6yo-16yo Blowjob by Caligvla-(375).jpg**

Description: The image depicts a female approximately 8-10 years old wearing a blindfold. A male subject's penis is observed on her tongue while ejaculating.

10. On December 23, 2019, writer issued and Administrative Subpoena to Earthlink Inc. identifying the dates and times or the previously mentioned downloads.

Earthlink Inc responded on January 14, 2020 stating IP address 69.81.147.138 was assigned to David Simmers located at 2520 42<sup>nd</sup> Street NW, Canton, Ohio 44709 at the times and date of the downloads.

11. On January 23, 2020, a federal search warrant signed by U.S. Magistrate Judge Kathleen B. Burke was obtained for Simmer's residence.

12. On January 28, 2020, the search warrant was executed at Simmer's residence on 42<sup>nd</sup> St NW in Canton, Ohio. Upon arrival at the residence and execution of the warrant Simmer's was not located at the residence.

13. SA Timothy Alvord and TFO Michael Volpe contacted Simmer's at his place of employment and advised him a search warrant was being executed at his residence. Simmer's agreed to return the residence and drove himself back to the location.

14. Affiant and TFO Ryan Anschutz contacted Simmers upon his return to the residence in an attempt to interview him. Simmers was advised he was not under arrest and did not have speak with affiant and TFO Anschutz.

15. During the interview Simmers stated he had been downloading and viewing child pornography at his current residence off and on for approximately 16 years.

16. Simmers also stated he used a "Raspberry Pie Box" to download the child pornography via the BitTorrent network.

17. Simmers believes he is in possession of thousands of files containing child pornography. Simmers defined child pornography as kids under the age of 18 engaged in sexual acts.

18. TFO Ryan Anschutz conducted a preview of the micro SD card contained in the "Raspberry Pie Box" and one external hard drive recovered from Simmers' bedroom. Below is a sample of the files that TFO Anschutz viewed and determined to be child pornography:

a. **Title: (Kinderkutje) (Pthc)\_From VHS \_ 8Yo Rape And Scream\_!!!**

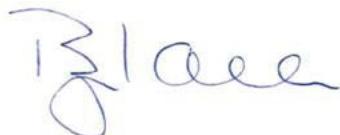
Description: The video depicts a nude prepubescent female engaging masturbation, oral to genital intercourse with a male subject and genital to genital intercourse.

b) **Title: (Pthc) Pedo 5Yo Vaginal Penetration - Rca 5Y(1)**

Description: The video depicts a prepubescent female bending over pulling her underwear down exposing her buttocks and vagina.

**CONCLUSION**

19. Based on the foregoing factual information, your affiant respectfully submits that there is probable cause to believe that David Simmers possessed, received and distributed visual depictions of child pornography in violation of 18 U.S.C. §§2252A(a)(5)(B) and (a)(2). Therefore, I am submitting this affidavit in support of an arrest warrant authorizing the arrest of David Simmers of 42<sup>nd</sup> St NW in Canton, Ohio.



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Bryan J. Allen  
Task Force Officer  
Federal Bureau of Investigation

Sworn to via telephone after submission by reliable electronic means. Fed. R. Crim. P. 4.1 on January 28, 2020.



Kathleen B. Burke, U.S. Magistrate Judge